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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,842	06/11/2001	Johann Engelhardt	1.ASP: 112_US_	3088
24041	7590	11/04/2003	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			PYO, KEVIN K	
			ART UNIT	PAPER NUMBER
			2878	

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/878,842

Applicant(s)

ENGELHARDT, JOHANN

Examiner

Kevin Pyo

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 3-5 and 8-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5 and 8-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "15". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Objections***

2. Claims 8, 15 and 29 are objected to because of the following informalities:

In claim 8, line 3, "the energy interacting" should be changed to --an interacting energy--.

In claim 15, line 6, "the energy interacting" should be changed to --an interacting energy--.

In claim 29, line 2, after "component", --- should be inserted.

Appropriate correction is required

***Claim Rejections - 35 USC § 112***

3. Claims 1, 3-5 and 8-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which a pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, it is unclear what element is used to accomplish the recited step of "providing a first energy to a first antenna element" and "providing a second energy to a second antenna element".

Furthermore, due to the lack of description, it is unclear how and in what manner the claimed switching step is accomplished. Based on what criteria, does the recited switching step occur? What type of switching element is used to achieve the claimed switching step? How and in what manner the claimed maintaining step is accomplished. Clarification is required.

Regarding claim 8, it is unclear what exactly constitutes the claimed "means for determining the input power of the energy interacting with the optically active component for deflecting a light beam". Is it a temperature sensor (14)? Is it an optical detector? Is it shown in the drawing? In addition, it is unclear what exactly constitutes the claimed "means for switching the drive energy to a non-deflecting energy interacting with the optically active component" and the claimed "means for maintaining the interacting energy at a constant level". Is it a CPU? Is it a microprocessing circuit? Applicant should clarify how these elements are matched with applicant's drawing since these elements are crucial features of applicant's invention.

Regarding claim 15, it is unclear what exactly constitutes the claimed "control loop for determining the input power of the energy interacting with the optically active component for maintaining the interacting energy at a constant level". Due to the lack of description, it is unclear how and in what manner the claimed control loop is used to achieve the recited determining and maintaining limitations. Furthermore, it is unclear if the claimed "means for switching" of claim 15 and the claimed "means for switching" of claim 8 are the same or not. It appears that the claimed "means for switching" of claim 15 not only does switching but also maintaining the average input power at a constant level. It is unclear in what manner the recited "maintaining the average input power at a constant level" limitation is accomplished.

4. Claims 1, 3-5 and 8-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 8 and 15, these claims recite the phrase "the input power of an interacting energy". It is unclear what the recited phrase refers to. Is it an intensity of a light beam? Clarification is required. Further, it is unclear how the phrase "the input power of an interacting energy" and the phrase "the average input power" of claim 15 are related to each other. It appears that the temperature of an optically active component and the input power (or the average input power) of an interacting energy have some relationship with each other. However, they are unclear and clarification is required.

Claim 8 recites in lines 4-5 that "the interacting energy is a drive energy of the optically active component". However, in view of applicant's argument set forth in page 11 of applicant's amendment filed on 9/12/2003 as well as to be consistent with claims 1 and 15, it appears that the interaction energy of claim 8 should be defined as "a drive energy of the optically active component and the light beam that interacts with the optically active component".

5. No patentability based on art is determined at this time since the intended scope of claims is unclear.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

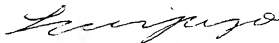
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Pyo whose telephone number is 703-308-4841. The examiner can normally be reached on Mon-Fri (with flexible hour). First Mon off

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 703 308-4852. The fax phone number for the organization where this application or proceeding is assigned is 703) 872-9300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

A handwritten signature in cursive script, appearing to read 'Kevin Pyo', written in black ink.

Kevin Pyo  
Primary Examiner  
Art Unit 2878

Pkk  
10/28/03